IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.Rev.Pet.No. 355 of 2000

CRA.119/1998 OF SESSIONS COURT, THRISSUR
CC.562/1996 OF JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

REVN. PETITIONER/ACCUSED/APPELLANT

KOUSALYA, AGED 30 YRS,
W/O. KUTTAN, KUMBARA COLONY,
KOZHIYAMPARAMBU, PUTHUSSERY DESOM,
NEDUMBARA VILLAGE, THALAPILLY TALUK,
THRISSUR DIST.

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENTS/RESPONDENT/COMPLAINT

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE EXCISE INSPECTOR,
WADAKKANCHERRY RANGE.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO. 2070/2000 IN CRL. RP NO. 355/2000 .

DISMISSED

07/11/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

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K.R.UDAYABHANU, J

Crl.R.P.No.355 of 2000

Dated this the 7th day of November, 2007

O R D E R

The revision petitioner is the accused in C.C.No.562/96 in the file of Judicial First Class Magistrate Court, Wadakkanchery who stands convicted for the offence under Section 58 of the Abkari Act and sentenced, as modified by the appellate court, to undergo R.I. for a period of 30 days and to pay a fine of Rs.15,000/- and in default, to undergo R.I. for three months.

2. The prosecution case is that on 14/9/1995 at about 5.30 p.m. the accused was found moving to the pathway on the eastern side of Kozhilamparambu temple in Nedumpura Village carrying 5 litres capacity container in which there was three litres of illicit arrack.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 and 2, Exts. P1 to P3 and MOI.

4. PW1, the independent witness, did not support the prosecution. PW2, the preventive officer, who detected the offence has testified as to the incident. He has deposed that

when the Excise party was patrolling the area they came across the revision petitioner and the recovery was effected. The sample was taken. Ext. P3, the chemical analysis report showed that the sample contained 31.35% by volume of ethyl alcohol. I find that the evidence of PW2 stands unimpeached. No serious discrepancy in testimonies has been brought out. In the circumstances, I find no reason to disturb the findings of the courts below. The conviction is confirmed.

5. It is submitted that more than 12 years have elapsed since the commencement of the proceedings. It is stressed that the revision petitioner is a lady and the quantity involved is only 3 litres. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.15,000/- and in default, to undergo simple imprisonment for two months. The revision petitioner is granted two months' time to remit the fine amount. She shall appear before the court below on 7.1.2008 to receive sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl